

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
(Indianapolis Division)**

RED BARN MOTORS, INC.,	*	DOCKET NO. 1:14-cv-01589-TWP-DKL
PLATINUM MOTORS, INC.,	*	
MATTINGLY AUTO SALES, INC.,	*	CLASS ACTION
YOUNG EXECUTIVE MANAGEMENT	*	Jury Trial Demanded
& CONSULTING SERVICES, INC.,	*	
Individually, and on behalf of other	*	
members of the general public	*	
similarly situated,	*	
	*	
v.	*	
	*	
COX ENTERPRISES, INC.,	*	
COX AUTOMOTIVE, INC.,	*	
NEXTGEAR CAPITAL, INC.,	*	
F/K/A DEALER SERVICES	*	
CORPORATION, successor by merger	*	
with Manheim Automotive Financial	*	
Services, Inc., and JOHN WICK.	*	
	*	

MOTION FOR CLASS CERTIFICATION AND
APPOINTMENT OF CLASS COUNSEL

NOW INTO COURT, through undersigned counsel, come the Plaintiffs, Red Barn Motors, Inc., Platinum Motors, Inc., and Mattingly Auto Sales, Inc., Individually and on behalf of other members of the general public similarly situated, and respectfully move this Court, pursuant to Federal Rule of Civil Procedure 23(c)(1)(A)¹ and 23(g)² for an Order certifying this case as a class action and appointing the undersigned attorneys for the Plaintiffs as Class Counsel.

The grounds for this Motion are:

(1) the Class for which certification is sought satisfy each of the requirements of Rule 23(a);

¹ Fed. R. Civ. P. 23(c)(1)(A) provides, “At an early practicable time after a person sues or is sued as a class representative, the court must determine by order whether to certify the action as a class action.”

² Fed. R. Civ. P. 23(g) pertains to the appointment of class counsel.

(2) certification of the Class is appropriate pursuant to Rules 23(b)(1) and/or (3); and

(3) the undersigned counsel will fairly and adequately represent the interests of the Class and otherwise satisfy the requirements of Rules 23(g)(1) and 23(g)(4),

as is more fully demonstrated by the Memorandum in support of this motion and Exhibits A through P attached thereto, including the Declarations of the Named Plaintiffs, the Declarations of Counsel, and sample Floorplan Agreements used by NextGear with its customer dealers during the applicable time frame, all of which are incorporated by reference herein.

The Class consists of all used car dealers in the United States of America that were parties to a Floorplan Agreement with NextGear effective during the time period of January 2005 through July 2013.

Each member of the proposed Class suffered damages as a result of the Defendants' wrongful conduct, including but not limited to being charged interest and fees on money not lent and damages to their business relationships.

Accordingly, the Plaintiffs request that the Court grant class certification and appoint the undersigned attorneys for the Plaintiffs as Class Counsel in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that I have, on the 30th day of September, 2016, served a copy of the foregoing Motion for Class Certification and Appointment of Class Counsel on all counsel of record via electronic service by the court's CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

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